

INTRODUCED: 04/26/2010

REFERRED TO: Economic Development Committee

SPONSOR: Councillor Cardwell

DIGEST: establishes procedures for the City of Indianapolis and Marion County to issue Recovery Zone Bonds under the 2009 Federal Stimulus Act

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SOURCE:

Initiated by: Indianapolis Bond Bank

Drafted by: Denise Barkdull, Bond Counsel

LEGAL REQUIREMENTS FOR ADOPTION:

Subject to approval or veto by Mayor

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL: \_\_\_\_\_

Date: April 21, 2010

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CITY-COUNTY GENERAL ORDINANCE NO. , 2010

A PROPOSAL FOR A GENERAL ORDINANCE amending the Revised Code of the Consolidated City and County to establish procedures for using Recovery Zone bonds under the 2009 Federal Stimulus Act, exercising the Home Rule powers of the City of Indianapolis and Marion County, Indiana, and other matters connected therewith.

WHEREAS, the City-County Council (the "Council") of the City of Indianapolis (the "City"), acting as the legislative body of Marion County, Indiana (the "County") and as the legislative body of both the incorporated City and the consolidated City, may designate an economic recovery zone (the "Recovery Zone") in accordance with Section 1401 of The American Recovery and Reinvestment Act of 2009 (the "Stimulus Act"); and

WHEREAS, the Stimulus Act authorizes counties and large municipalities to issue recovery zone economic development bonds (the "Recovery Zone Bonds") for purposes of promoting development or other economic activity in a Recovery Zone, including to finance: (i) capital expenditures related to property located in the Recovery Zone; (ii) public infrastructure and facilities; and (iii) job training and educational programs (the "Qualified Economic Development Purpose"); and

WHEREAS, the Stimulus Act authorizes counties and large municipalities to issue recovery zone facility bonds (the "Recovery Zone Facility Bonds") to finance property used in a Recovery Zone for a qualified business; and

WHEREAS, the City and the County will comply with all other applicable statutory requirements for the issuance of bonds under Indiana law; and

WHEREAS, pursuant to the Stimulus Act, each state has been allocated an amount equal to the ratio of a state's employment decline for 2008 to the aggregate of employment decline of 2008 for all states multiplied by \$10 billion for Recovery Zone Bonds, but in no event less than \$90 million and multiplied by \$15 billion for Recovery Zone Facility Bonds, but in no event less than \$135 million (collectively, the "State Allocation"); and

WHEREAS, the Stimulus Act provides for the reallocation of the State Allocation to all counties and large municipalities within the State of Indiana (the "State") in the proportion that each county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for the counties and municipalities in the State (the "Local Volume Cap"); and

WHEREAS, the consolidated City was allocated \$34,158,000 of Recovery Zone Bond volume and \$51,237,000 of Recovery Zone Facility Bond volume, the incorporated City was allocated \$33,753,000 of

Recovery Zone Bond volume and \$50,630,000 of Recovery Zone Facility Bond volume and the County was allocated \$3,109,000 of Recovery Zone Bond volume and \$4,663,000 of Recovery Zone Facility Bond volume and all such entities will benefit from a consolidation of such allocations to a single entity; and

WHEREAS, IC 36-1-3 is known as the Home Rule Act; and

WHEREAS, IC 36-1-3-5(a) provides that a unit may exercise any power it has to the extent that the power: (1) is not expressly denied by the Indiana Constitution or by statute; and (2) is not expressly granted to another entity; and

WHEREAS, IC 36-1-3-6 provides that if there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner, and that in the absence of a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must either: comply with a statutory provision permitting a specific manner for exercising the power or adopt an ordinance prescribing a specific manner for exercising the power; and

WHEREAS, IC 36-1-2-23 defines "unit" to include the City and the County; and

WHEREAS, IC 36-1-3-6(c) provides that a county desiring to prescribe a specific manner for exercising a power must do so through an ordinance adopted by the legislative body of the County and that a City desiring to prescribe a specific manner for exercising a power must do so through an ordinance adopted by the legislative body of the City (including the incorporated City and the consolidated City); and

WHEREAS, the City-County Council is the legislative body of the County and the City; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE  
CITY OF INDIANAPOLIS AND MARION COUNTY, INDIANA:

SECTION 1. The Revised Code of the Consolidated City and County be, and is hereby amended, by adding a new Article VIII in Chapter 181 to read as follows:

ARTICLE VIII – Economic Recovery Zone Bonds

Sec. 181-801. Recovery Zones.

One or more Recovery Zones are to be designated by the Council by (i) publishing a notice of a public hearing in accordance with IC 5-3-1 regarding the designation of the Recovery Zone; (ii) conducting a public hearing; and (iii) adopting a resolution designating the Recovery Zone.

Sec. 181-802. Volume Caps.

The Director of The Indianapolis Local Public Improvement Bond Bank (the "Director") shall review requests for allocation of Local Volume Cap, review the economic benefits to the City and the County of any requesting projects and make preliminary allocations of the Local Volume Cap to projects located throughout the County, which preliminary allocations shall be confirmed by this Council in connection with the approval of the issuance of the bonds utilizing the Local Volume Cap allocation or confirming a bond allocation to another issuer with jurisdiction within the County.

Sec. 181-803. Waiver to State.

The Council on behalf of the City and the County, hereby waives the applicable Local Volume Cap to the State on the condition that the State work with the Director to reallocate the volume to the County.

SECTION 2. If for any reason any section, subsection, sentence, clause or phrase of this Ordinance or the application thereof to any person or circumstance is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 3. This Ordinance shall take effect and be in force from and after passage and compliance with IC 36-2-4-8.

The foregoing was passed by the City-County Council this \_\_\_\_\_ day of \_\_\_\_\_, 2010, at \_\_\_\_\_ p.m.

ATTEST:

\_\_\_\_\_  
Ryan Vaughn  
President, City-County Council

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Melissa Thompson  
Clerk, City-County Council

Presented by me to the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2010, at 10:00 a.m.

\_\_\_\_\_  
Melissa Thompson  
Clerk, City-County Council

Approved and signed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Gregory A. Ballard, Mayor